

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JEROME WASHINGTON,

Plaintiff,

-against-

MEMORANDUM & ORDER  
12-CV-1452 (JS) (SIL)

MICHAEL SPOSATO, UNDER SHERIFF HESS,  
CAPTAIN MICHAEL ADAMS, CAPTAIN SMITH,  
III, Shield 1b, CAPT. FORD, C.O.  
CAMBRIDGE, CORPORAL MCGINNIS,  
CORPORAL VON HOTTEN, C.O. LAWRENCE  
PETTE, C.O. STEPHEN COUGHLIN, SGT.  
FERRY, SGT. SIMPSON, Shield 103,  
SGT. DRAKE, C.O. KENNEDY, C.O. IMHOF,  
P.A./NURSE HUMPHRIES, SGT. GORA,  
Shield # 112, CAPT. ROGERS, C.O. PICCOLI,  
THEODORE KAY NJEMANJYI, CPL. LANDING,  
SGT. MCGOVERN, Shield # 110, SGT.  
MCNAMARA, C.O. INCAMMACIA, Shield #2723,  
SGT. O'CONNOR, C.O. MCFIGUE, C.O.  
MANIKOWKI, C.O. HENSHAW, UNDER SHERIFF  
BOUDERIS, LT. HARTLING, SGT. SHIMMEL,  
SGT. SHERRON, SGT. CALLAHAN, SGT. TOBIN,  
Shield 1012, SGT. EDMOND, JOHN DOE,  
Badge No. 221, C.O. GROSS, C.O. MORHMAN,  
C.O. NOSTRADAMUS, C.O. GIARDINO, C.O.  
INGRAM, C.O. ACCORDINE, C.O. ARAMANI,  
C.O. CURCIO, C.O. RANT, C.O. TORCHIA,  
C.O. MCCAFFERTY, C.O. DOUGHERTY, C.O.  
MCKENNA, SGT. BRAXTON, SGT. CINTRON,  
SGT. HEINZ, and SGT. FERRY, Shield # 24,

Defendants.

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JEROME WASHINGTON,

Plaintiff,

-against-

13-CV-5445 (JS) (SIL)

MICHAEL SPOSATO, UNDER SHERIFF HESS,  
CAPTAIN MICHAEL ADAMS, CAPTAIN SMITH,  
III, C.O. HENSON, C.O. BONIFACE, C.O.  
MCTIGUE, JOHN & JANE DOES,

Defendants.

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APPEARANCES

For Plaintiff: Jerome Washington, pro se  
2182 Mona Lisa Drive  
Montgomery, AL 36111

For Defendants

C.O. ACCORDINE: Andrew Kenneth Preston, Esq.  
Bee Ready Fishbein Hatter & Donovan LLP  
170 Old Country Road  
Mineola, NY 11501

Docket No. 13-5445

Michael Sposato,  
Under Sheriff Hess,  
Capt. Smith, III,  
C.O. Henson, C.O.  
Boniface, and

C.O. McTigue: Richard John Femia, Esq.  
Nassau County Attorney's Office  
1 West Street  
Mineola, NY 11501

SEYBERT, District Judge:

Currently pending before the Court is Magistrate Judge William D. Wall<sup>1</sup>'s Report and Recommendation ("R&R") recommending that this action be consolidated with 12-CV-1452. For the following reasons, the Court ADOPTS this R&R in its entirety.

BACKGROUND

Pro se plaintiff Jerome Washington ("Plaintiff") commenced this action on September 27, 2013 against defendants Michael Sposato; Under Sheriff Hess; Capt. Smith, III; C.O. Henson; C.O. Boniface; C.O. McTigue; and John and Jane Does (collectively "Defendants") alleging, inter alia, that Defendants assaulted him in the Nassau County Correctional

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<sup>1</sup> Magistrate Judge Steven I. Locke has since been assigned as the magistrate in this action.

Center on February 14, 2013 causing severe injuries. (Compl. at 5<sup>2</sup>.)

Similarly, Plaintiff previously commenced an action before this Court on March 22, 2012 under Docket Number 12-CV-1452. The Amended Complaint in that action alleges a series of constitutional violations against various defendants at the Nassau County Correctional Center, including some Defendants herein and numerous physical assaults. (See Case No. 12-CV-1452, Docket Entry 15.)

In an electronic Order dated May 1, 2014, Judge Wall considered and denied consolidation of Plaintiff's two actions. On July 7, 2014, however, Judge Wall indicated in a Pre-Trial Order that he would reconsider the issue of consolidation at a later conference. Judge Wall then held a conference on July 29, 2014, during which he found that Plaintiff's actions should be consolidated. (See July 30, 2014 Pre-Trial Order, Docket Entry 24.) On July 30, 2014, Judge Wall issued a formal R&R recommending consolidation. (See Docket Entry 25.)

#### DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the

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<sup>2</sup> Page Numbers refer to those provided by the Electronic Case Filing System.

"court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Here, no party objected to Judge Wall's R&R. The Court finds his R&R to be correct, comprehensive, well-reasoned and free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

#### CONCLUSION

Judge Wall's R&R is ADOPTED in its entirety. Case numbers 13-CV-5445 and 12-CV-1452 shall be consolidated and the separate complaints shall be treated as one amended complaint. The parties are directed to make all filings in the earliest filed case, 12-CV-1452.

The Court certifies that pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of the Court is directed to mail a copy of this Memorandum and Order to pro se Plaintiff and mark case number 13-CV-5445 CLOSED.

SO ORDERED.

Dated: September 29, 2014  
Central Islip, New York

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.